

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK; DAVID A. PATERSON, in his capacity as Governor of the State of New York; ANDREW M. CUOMO, in his capacity as Attorney General of the State of New York; MADISON COUNTY, NEW YORK; and ONEIDA COUNTY, NEW YORK,

Plaintiffs,

– against –

KENNETH L. SALAZAR, Secretary, United States Department of the Interior; JAMES E. CASON, Associate Deputy Secretary of the Interior; P. LYNN SCARLETT, Deputy Secretary of the Interior; FRANKLIN KEEL, Eastern Regional Director, Bureau of Indian Affairs; UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS; UNITED STATES DEPARTMENT OF THE INTERIOR; UNITED STATES OF AMERICA; JAMES A. WILLIAMS, Acting Administrator, United States General Services Administration; UNITED STATES GENERAL SERVICES ADMINISTRATION,

Civ. Action No.
6:08-cv-00644 (LEK)
(GJD)

Defendants,

and

ONEIDA NATION OF NEW YORK,

Defendant-Intervenor.

**NOTICE OF MOTION TO COMPEL COMPLIANCE WITH
COURT ORDER TO PRODUCE FOIA DOCUMENTS**

PLEASE TAKE NOTICE that upon the Declaration of David M. Schraver dated October 30, 2009, the exhibits attached thereto, and the accompanying Memorandum of Law, the undersigned shall move this Court, before the Honorable Gustave J. DiBianco, United States Magistrate Judge, at the James Hanley Federal Building, 100 S. Clinton Street, Syracuse, New York, on December 3, 2009 at 9:30 a.m., or as soon thereafter as counsel may be heard, for

an order, pursuant to Federal Rule of Civil Procedure 37(b), requiring the Government Defendants to comply with this Court's November 6, 2008 Order to produce documents responsive to Plaintiffs' requests under the Freedom of Information Act and staying further proceedings until the Government Defendants have fully obeyed the Court's Order.

PLEASE TAKE FURTHER NOTICE that, in accordance with Local Rule 7.1(b)(2) a court conference was held with Magistrate Judge DiBianco on July 14, 2009, regarding the issues presented in this motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 7.1(b), Defendants' opposition papers, if any, shall be served on counsel not less than 17 days prior to the return date of this motion; and any reply papers thereto will be filed not less than 11 days prior to the return date of this motion.

Dated: October 30, 2009

NIXON PEABODY LLP
Attorney for Madison County, New York and
Oneida County, New York

Of Counsel:

WHITE & CASE LLP

Dwight A. Healy, Esq.
Bar Roll No: 302232
1155 Avenue of the Americas
New York, New York 10036-2787
Tel: 212-819-8200
Fax: 212-354-8113

By: /s/ David M. Schraver
DAVID M. SCHRAVER
Bar Roll No: 105037
1100 Clinton Square
Rochester, NY 14604-1792
Tel: 585-263-1000
E-Mail: DSchraver@nixonpeabody.com

DAVID H. TENNANT, ESQ.
Bar Roll No: 510527
1100 Clinton Square
Rochester, NY 14604-1792
Tel: 585-263-1000
E-Mail: DTennant@nixonpeabody.com

ANDREW M. CUOMO
Attorney General of the State of New York,
Pro Se and as Attorney for the State of New
York and Governor David A. Paterson

By: /s/ Robert A. Siegfried
ROBERT A. SIEGFRIED, AAG
Bar Roll No: 102608
Tel: 518-473-5097
E-Mail: Robert.Siegfried@oag.state.ny.us

DAVID B. ROBERTS, AAG
Bar Roll No: 102455
Tel: 518-408-2516
E-Mail: David.Roberts@oag.state.ny.us

Office of the Attorney General
The Capitol
Albany, New York 12224